



Attorney Docket HOY-00102/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stephen B. Hoy

Serial No.: 08/817,278

Filed: April 10, 1997

For: EDIBLE ANIMAL GREETING CARDS

**PETITION TO MAKE SPECIAL BECAUSE OF
ACTUAL INFRINGEMENT (37 C.F.R. §1.102(d))**

Assistant Commissioner for Patents
Washington, D.C. 20231

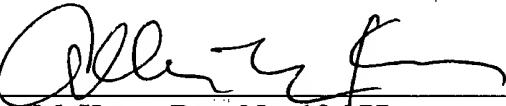
Dear Sir:

Applicant hereby petitions to make the above-identified application special because of actual infringement.

Accompanying this petition is a Preliminary Amendment, Declaration of Facts in Support of Petition to Make Special Because of Actual Infringement, a Declaration of Attorney Allen M. Krass in Support of Petition to Make Special Because of Actual Infringement, and a check in the amount of \$130.00 to cover the required fee.

Please charge any additional fees to Deposit Account No. 07-1180. A duplicate of this petition is attached for that purpose.

Respectfully submitted,



Allen M. Krass, Reg. No. 18,277
Attorney for Applicant
Gifford, Krass, Groh, Sprinkle,
Patmore, Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009-5394
(248) 647-6000

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November 12, 1998

PCT EL237326712US
404 Rec'd PCT/PTO 12 NOV 1998

Attorney Docket HOY-00102/03

THE UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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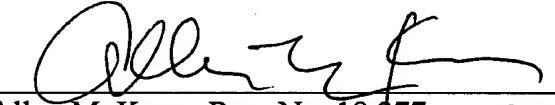
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Patmore, Anderson & Citkowski, P.C.
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Birmingham, MI 48009-5394
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stephen B. Hoy

Serial No.: 08/817,278

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**DECLARATION BY ATTORNEY IN SUPPORT OF PETITION TO
MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (MPEP §708.02)**

I, Allen M. Krass (Reg. No. 18,277), whose office is located at 280 N. Old Woodward, Suite 400, Birmingham, Michigan 48009, and having a telephone number of (248) 647-6000, am the attorney for the Applicant in this case and make the following declarations:

1. I have made a rigid comparison of the alleged infringing products referred to in the accompanying declaration of Stephen B. Hoy with the claims of this application. As can be seen by comparing Exhibits A and B, the infringing products distributed by Pet Perks and Sergeant's, respectively, with the claims of the subject application, it is clear that these products are covered by the claims of the present application.

Specifically, both the infringing products infringe claims 1, 2, and 22 of the claims as amended in the accompanying Preliminary Amendment. Claim 1 recites an edible greeting card suitable for ingestion by a pet. Both of these products are edible greeting cards which may be eaten by a pet, and in the case of both products, they are specifically intended to be eaten by a dog.

Claim 1 as amended further requires a substantially edible panel suitable for ingestion by a pet, this panel having a front surface and a back surface. As can readily be seen, both products include a substantially rigid edible panel having both a front surface and a back surface.

Claim 1 further requires at least one message region disposed on either the front or back surface of the edible panel. In the case of both products, a message region is formed on the front surface of the respective rigid, edible panels.

Claim 1 further requires at least one message formed of a material suitable for ingestion by the pet and disposed in the message region. In the case of the product shown in Exhibit A, the message is in the form of the words "Seasons Greetings" superimposed upon a graphic image of a dog and a Christmas wreath. This message appears in the message region of the edible panel. Furthermore, since the message is formed of edible vegetable ink, the message is formed of a material suitable for ingestion by a pet.

In the case of product B, the message is in the form of the words "You're G-R-R-R-R-E-A-T!!" which appears under a cartoon image of a dog holding a bunch of balloons. The message is disposed on the message region of the front surface of the edible panel and, according to the package information, is formed of a "safe non-toxic brown food coloring." Thus, the message is formed of a material suitable for ingestion by a pet.

Claim 2 of the Applicant's invention requires that the at least one message appearing on the greeting card be directed to the pet. In the case of both products A and B, the message is directed to the dog who is intended as the recipient of the respective greeting card.

Claim 22 of the pending application requires that the substantially rigid panel include rawhide. The packaging for product A describes the product as "rawhide chewable holiday card for that favorite dog!" The packaging for product B lists among its ingredients "rawhide." Thus, it is apparent that both of these cards are made of rawhide with the printing done with edible ink.

Accordingly, both products A and B fully meet all of the recitations of claims 1, 2 and 22 as amended in the accompanying Preliminary Amendment.

2. I have a good knowledge of the pertinent prior art and all such material art is provided to the examiner as being filed in a respective Information Disclosure Statement.

3. I believe all the claims in this application as on file resulting from the attached amendment are allowable.

4. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

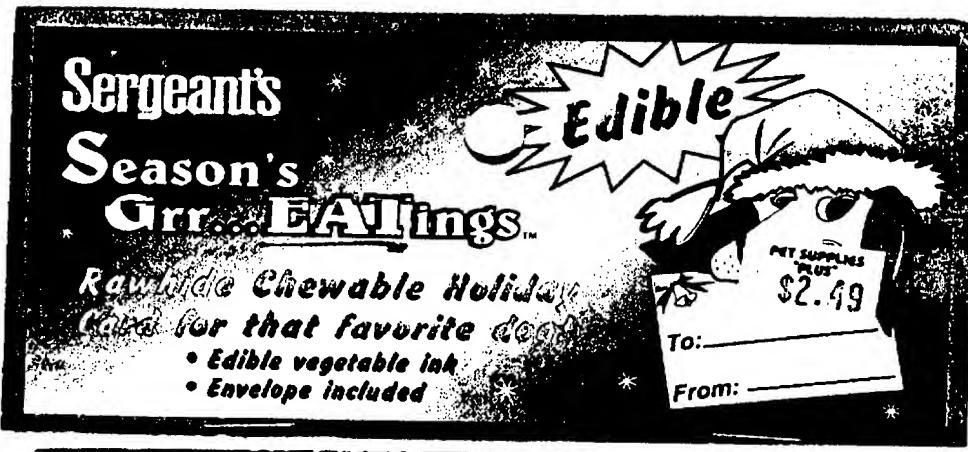
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Allen M. Krass, Reg. No. 18,277
Attorney for Applicant
Gifford, Krass, Groh, Sprinkle,
Patmore, Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009-5394
(248) 647-6000

JMR/gs

Dated: November 12, 1998



SH-58
EXHIBIT A

OSTAGE REQUIRED

POSTPAID

NO POSTAGE REQUIRED

470/104

Gnome Domes

A delightful peanutty candy! Chocolate and Peanuts... a favorite candy combination. Instead of guarding the treasures, our Gnomes ARE the treasures—rich in deliciously smooth peanut butter candy and covered with our flavored chocolate. Each smiling Gnome Dome is whimsically hand decorated. 14 oz. net wt.

GIFT 1055 . PPD . \$8.95



From their little lost log deep in the snowy woods, these 8 oz. chocolate flavored Orphans are searching for that special someone to surprise at Christmastime. And a yummy surprise it will be! If you promise to find them a happy home, they'll bring lasting smiles and holiday joy to one and all. A most delicious expression of your friendship!

15 GIFT 1682 . PPD . \$4.95



We Hand Personalize Each Card For You!

A Swiss Colony Exclusive! Send a most thoughtful, yet unusual, greeting card ever to the special people on your list. Luscious V.I.P. chocolate, cast into unique cards, hand decorated and personalized with a chocolate signature of your choice. No ordinary card, but one which will be remembered for both its cheery greetings and its delectable flavor long after the Holidays. When "the usual" is not good enough, let us make a card for you. Enter signature desired on "Greetings From" line of order form (maximum 12 letters per card).

MERRY CHRIS MOUSE—Let us make this 7 1/4" x 4" card for those special people on your list. A 1/2 pound of luscious milk chocolate and a cheerful smile say it all.

GIFT 1819 . PPD . \$7.95

THE CAROLERS—We'll send this 7 1/4" x 4" card of carolers to sing of holiday good wishes from you. It's 1/2 pound of chocolate cheer!

GIFT 1820 . PPD . \$9.50

CURRIER AND IVES—NEW . Start a Christmas tradition with our 4 1/2" x 7 1/2" personalized chocolate greeting card. A nostalgic winter scene is depicted in 8 ounces of pure milk chocolate.

GIFT 1561 . PPD . \$8.50

POSTPAID

NO POSTAGE REQUIRED

Sergeant's

(Patent Pending)

Sergeant's is committed to providing high quality products. If you have questions or comments about this product, please write: Sergeant's Consumer Response, P.O. Box 38159, Richmond, VA. 23231-0959

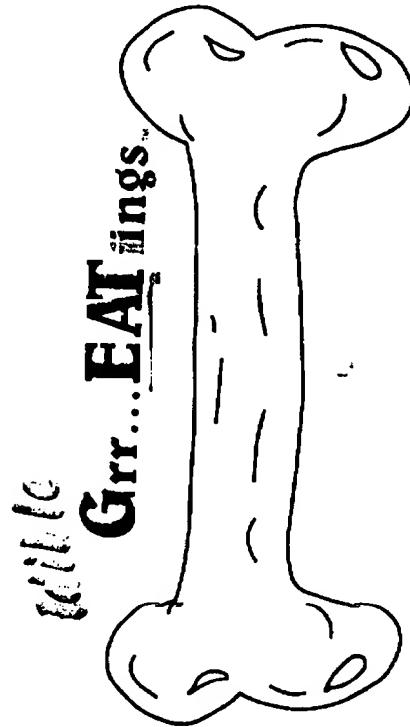


This holiday greeting card is made of genuine rawhide and is loved by dogs. Sergeant's natural rawhide provides beneficial chewing exercise to help clean teeth and strengthen gums.

CAUTION: For supervised consumption only. Remove and discard if your pet attempts to swallow large pieces or chunks.

Made in Canada
Distributed by:
Sergeant's Pet Products
Omaha, NE 68102

Sergeant's



*Rawhide Chewable
Holiday Card*

CAUTION: For supervised consumption only. Remove and discard if your pet attempts to swallow large pieces or chunks.



100% Recyclable

GREETING CARD

Special Occasions - Good Behavior - New Arrival - Holidays



EXHIBIT ⁸⁴⁻⁰⁸³ B

810 263 9320

Nov-09-98 02:51P Lakefield Vet Hospital

810 263 9320

P.11



INGREDIENTS: Rawhide, safe
meat-based dog chews.

WARNING: Do not give this
product to your dog on furniture or
carpeted areas.

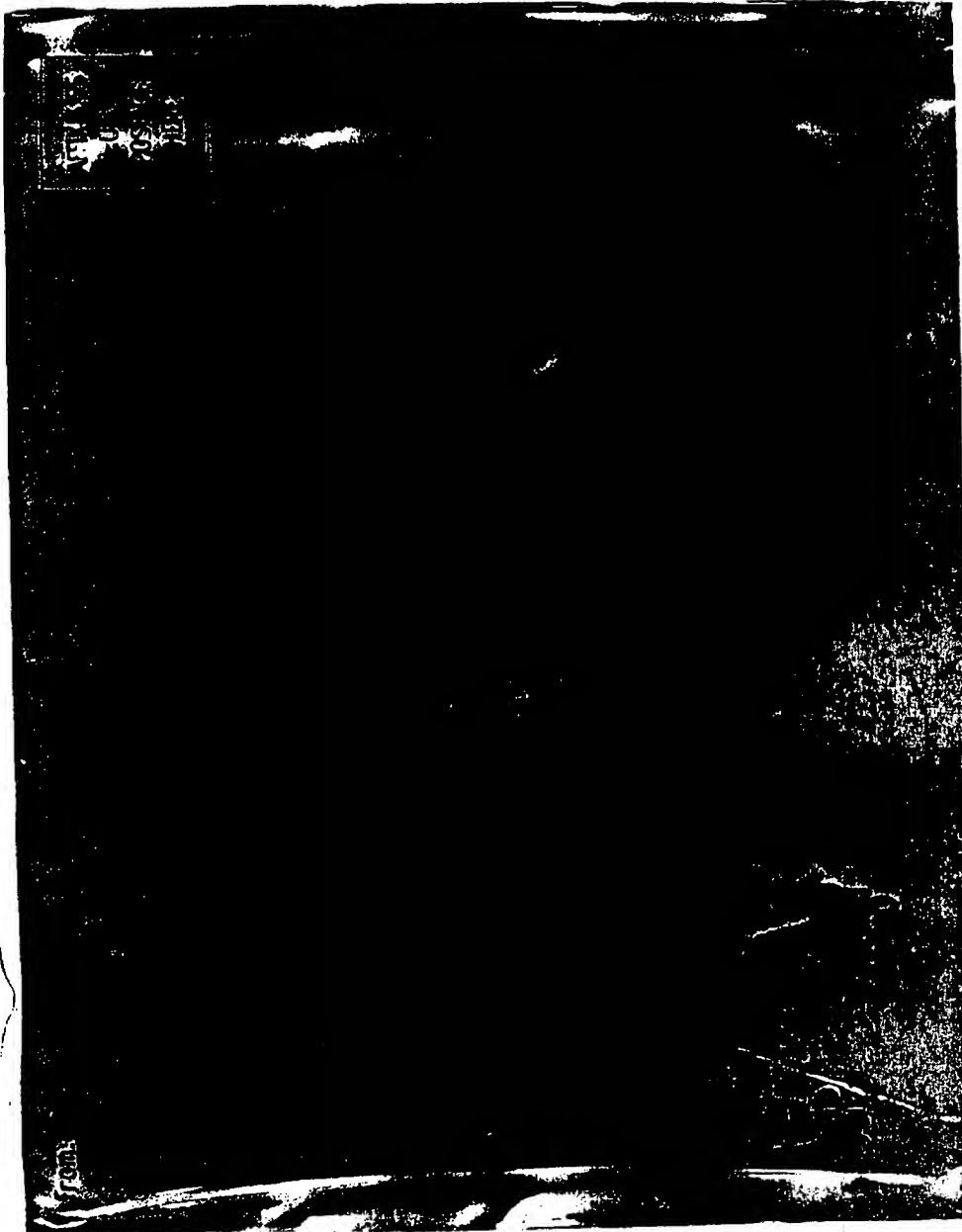


Distributed by

Pet Perks

Plymouth, MN 55441

MADE IN THAILAND



514-234



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- February 99 - [CA 1,326,327 - Novelty T-Shirt](#)
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- April 99 - [CA 2,141,482 - Eccentric Weather Shelter](#)
- May 99 - [US 5,387,159 - Continuous Wave Generating Apparatus for Simulated Surfriding](#)
- June 99 - [US 4,909,620 - Novelty Sun Glasses with Information Display Members Having the Form of Moose Antlers](#)
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Patent of the month: CANADIAN APPLICATION 2,229,040

OPIC
OFFICE DE LA PROPRIÉTÉ
INTELLECTUELLE DU CANADA



CIPO
CANADIAN INTELLECTUAL
PROPERTY OFFICE

(12)(19)(CA) Demande-Application

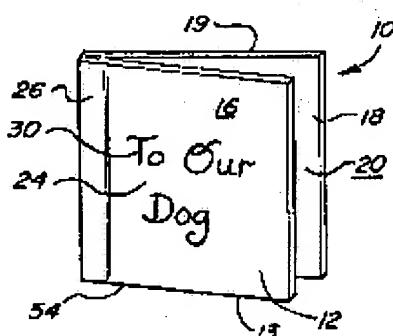
2,229,040
(21)(A1) 1996/08/06
(86) 1997/02/20
(87)

(72) HOY, Stephen B., US

(71) HOY, Stephen B., US

(51) Int.Cl. A23K 1/00

(30) 1995/08/07 (60,001/957) US

(54) **CARTES DE VOEUX CONSOMMABLES POUR ANIMAUX**(54) **EDIBLE ANIMAL GREETING CARDS**

(57) La présente invention concerne une carte de vœux consommable (10) pouvant être ingérée par un animal familier, qui comprend au moins un feuillett consommable essentiellement rigide (12) ayant au moins une région pour les messages (24) positionnée sur la surface avant et/ou la surface arrière du feuillett. Au moins un message consommable (30) se trouve dans la région pour les messages et, dans une forme d'exécution préférée, plusieurs messages se trouvent sur des feuillets consommables de la carte de vœux. Le message consommable comprend une pluralité de caractères, chaque caractère étant suffisamment grand pour pouvoir être visible par l'œil humain moyen. Dans des formes d'exécution utilisant deux feuillets ou davantage (12, 18) édiables, des dispositifs de jointure (26) sont utilisés pour joindre les panneaux. Les panneaux sont positionnés dans la proximité de l'animal pour que l'animal puisse voir et ingérer les panneaux.

(57) The present invention is directed to an edible greeting card (10) suitable for ingestion by a pet which comprises at least one substantially rigid edible panel (12) having at least one message region (24) positioned on the front surface and/or back surface of the panel. At least one edible message (30) is provided within the message region and, in a preferred embodiment, a plurality of messages are provided on the edible panels of the greeting card. The edible message has a plurality of characters, each character being sufficiently large so as to be perceived by the average human. In embodiments utilizing two or more panels (12, 18) edible joining devices (26) are utilized to join the panels. The panels are positioned within the vicinity of the pet so that the pet may view and ingest the panels and

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être visible par l'œil humain moyen. Dans des formes
d'exécution utilisant deux feuillets ou davantage (12,
18), des dispositifs de jonction consommables (26)
servent à joindre les feuillets. Les feuillets et les
messages consommables sont placés près de l'animal
familier pour qu'il puisse les voir et les manger.

C2 p. 3
edible joining devices (26) are utilized to join the panels. The panels are positioned within the vicinity of the pet so that the pet may view and ingest the panels and edible message.

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EXHIBIT

A2

Title: RAWHIDE ANIMAL TREAT AND METHOD OF MAKING SAME

Patent Number: WO9913707

Publication date: 1999-03-25

Inventor(s): BALNE FRANK (CA); LAJEUNESSE GERMAIN (CA); PRESTIDGE CHARLES (US); NEIBERGER DENNY (US)

Applicant(s): BALNE FRANK (CA); P U P INC (CA); LAJEUNESSE GERMAIN (CA); PRESTIDGE CHARLES (US); NEIBERGER DENNY (US)

Application Number: WO1997CA00679 19970917

Priority Number(s): WO1997CA00679 19970917

IPC Classification: A01K15/02 ; B42D15/02 ; A23K1/18

Requested Patent: WO9913707

Equivalents:

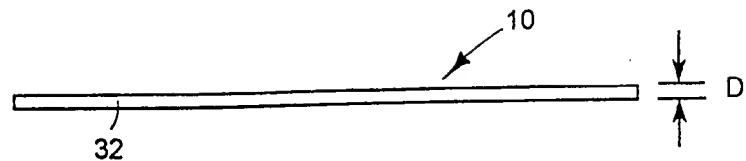
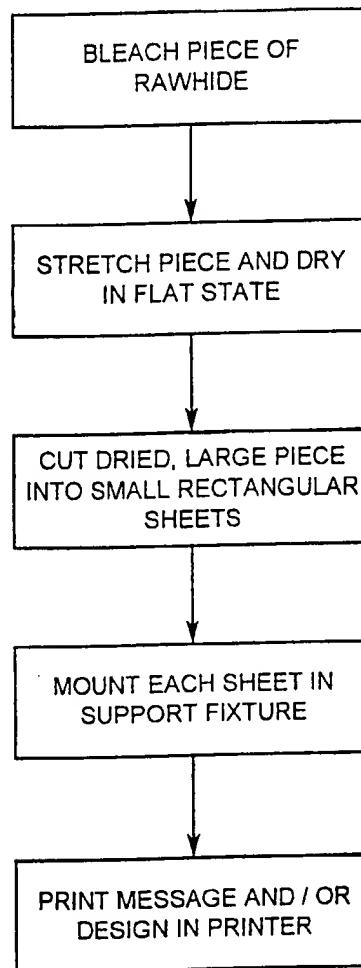
Abstract

An animal treat (10) for animals having the appearance of a greeting card comprises a generally flat sheet (12) of bleached rawhide and a literary message (14) and/or decorative picture (16) printed on at least one side of the sheet. The message and/or picture is printed using one or more edible inks. In one preferred embodiment, there is a decorative picture (16) printed with edible inks of at least two colours. The sheet of rawhide can be generally rectangular with rounded corners (44) although other shapes are also possible. The method of producing this animal treat is also described. This method including drying bleached rawhide in a stretched, flat state, cutting rectangular sheets from the dried material, supporting each dried flat sheet in a suitable support structure for printing and then printing the message and/or decorative design on the flat sheet using a printer, such as a pad printer.

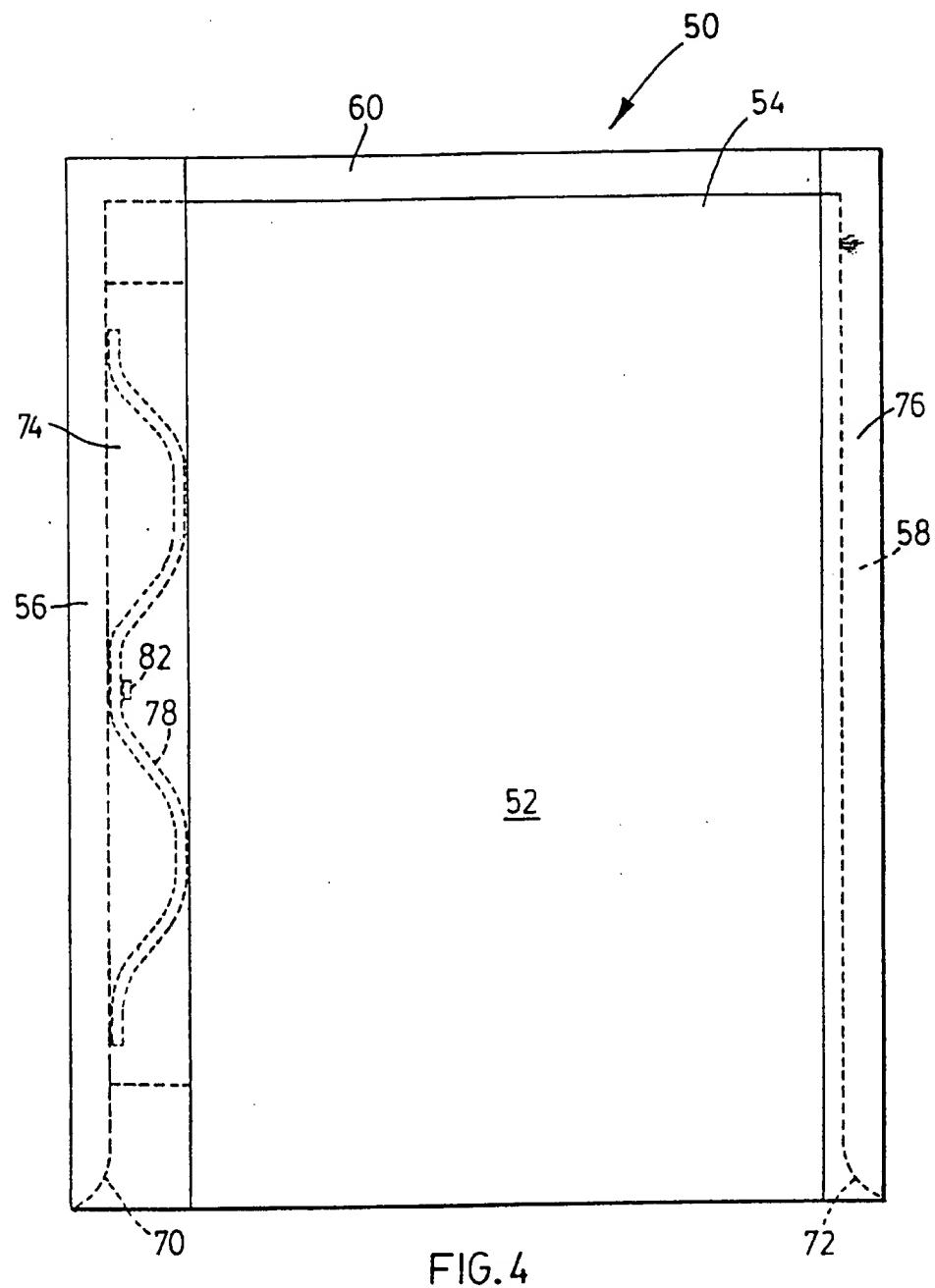
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FIG. 1

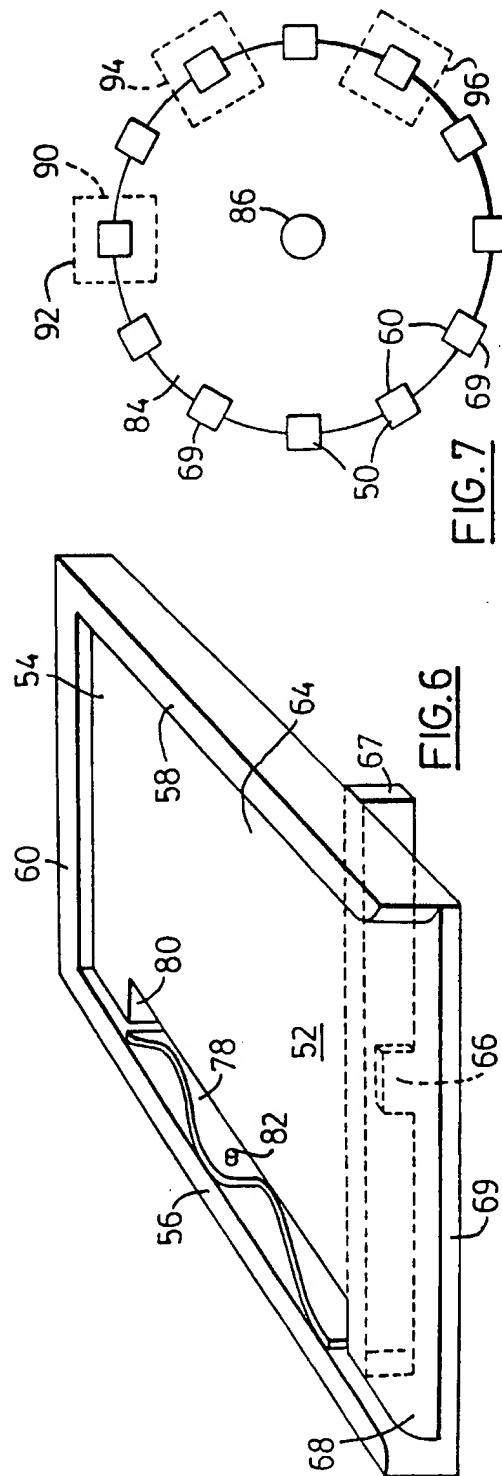
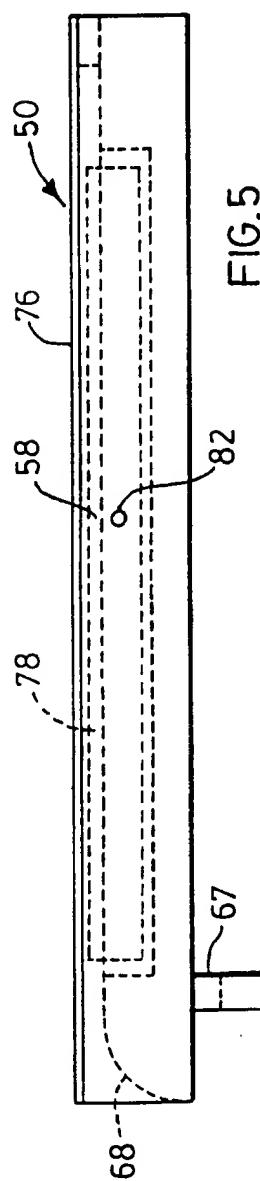
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FIG. 2FIG. 3

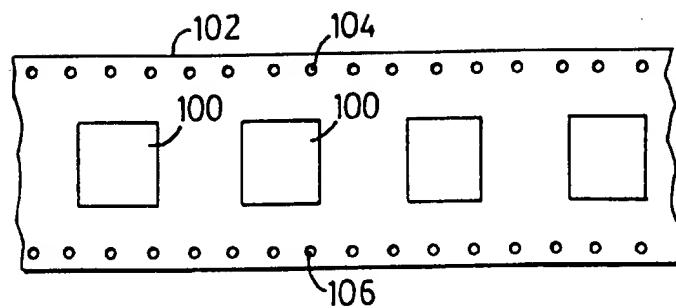
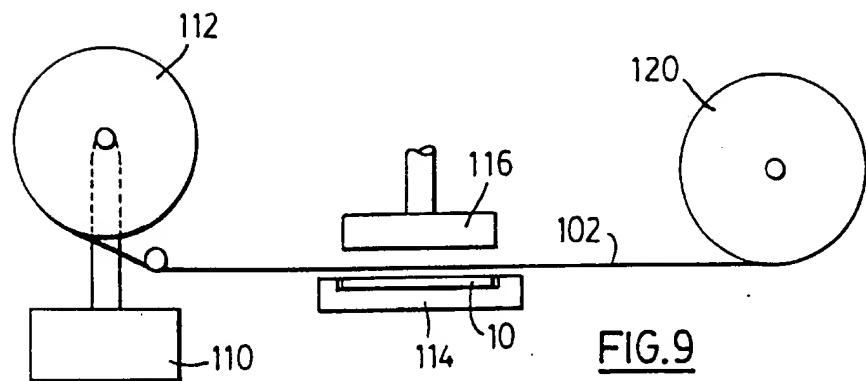
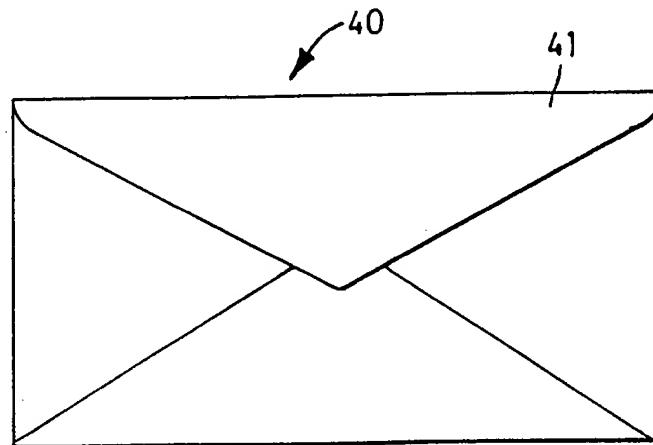
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FIG. 4

4/5



5/5

FIG.8FIG.9FIG.10



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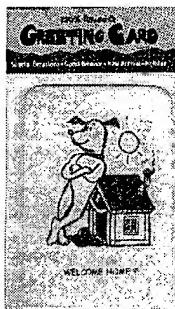
Pet Greetings 100% Edible Greeting Cards For Pets

As seen on the Fox News Pet Channel and heard on KABC-AM radio's Warren Eckstein's "The Pet Show", these 100% edible rawhide cards for dogs are ideal for anyone who wants to show their pet or a friend's pet how much they care in a unique and innovative way!

Each card also comes with its own colorful mailing envelope.

For just \$2.00 a card, plus shipping and handling, you can choose from one of five different designs. Just click on the buttons below to get additional information about each card and to place an order.

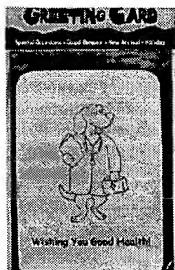
Order now and watch your pets "woof" them down!!!



40 Welcome Home" Edible Greeting Card

Great for new pets, pets home from surgery, and welcoming pets back from boarding or grooming!

[\\$2.00 Order](#)



50 Good Health Card

Ideal for Veterinarians to give to valued patients and for dogs who may be under the weather or recovering from surgery. Unique check-up reminders!

[\\$2.00 Order](#)



20 Happy Bark-Day!!" Edible Greeting Card

Ideal for dogs celebrating Birthdays!

[\\$2.00 Order](#)



[\\$2.00 Order](#)



300 Season's G-r-r-r-e-e-t-i-n-g-s!!" Edible Greeting Card
Perfect holiday card for the pet that has been naughty or nice! Excellent stocking stuffer!

[\\$2.00 Order](#)

Pet Greetings. 2659 Townsgate Road, Suite 101, Westlake Village, CA 91361. 805-374-1201. Fax 805-374-1204

Powered by [OnlineTransact Electronic Storefront](#).

The BML Great Boxer Crafts & Collectibles Auction

Page 2



Item 14, 15 & 16 - - The Boxer: Friend of All Seasons - Pet Crest. Proudly display your Boxer's Pet Crest and find out the meaning of the symbolism depicted. For instance . . . What is the significance of the two flags? What is the name of the castle? How far back was the ancestor of the Boxer used as a war dog? A history and an explanation of the Coat of Arms comes with each product. Donated by Mary and Lucien Guilbert of Pet Crest This lovely work of art is double matted and signed by the artist, pictured below.

14, 15 & 16 Minimum Bid: \$12.00

Item 14 Current Bid: \$30.00
Sandy Turnidge

Item 15 Current Bid: \$30.00
Bill McCune

Item 16 Current Bid: \$35.00 Susan Firth



Your Pet Crests Artist,
Lucien Guilbert, just
celebrated his 80th
Birthday!

Visit his [website](#) and
see all of the crests.
Send an email and get a
FREE Boxer notecard.



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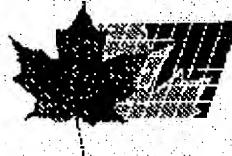
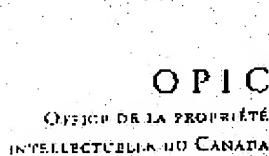


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Patent of the month: CANADIAN APPLICATION 2,229,040



C I P O
CANADIAN INTELLECTUAL
PROPERTY OFFICE

(12)(19)(CA) **Demande-Application**

(21)(A) 2,229,040

(86) 1996/08/06

(87) 1997/02/20

(72) HOY, Stephen B., US

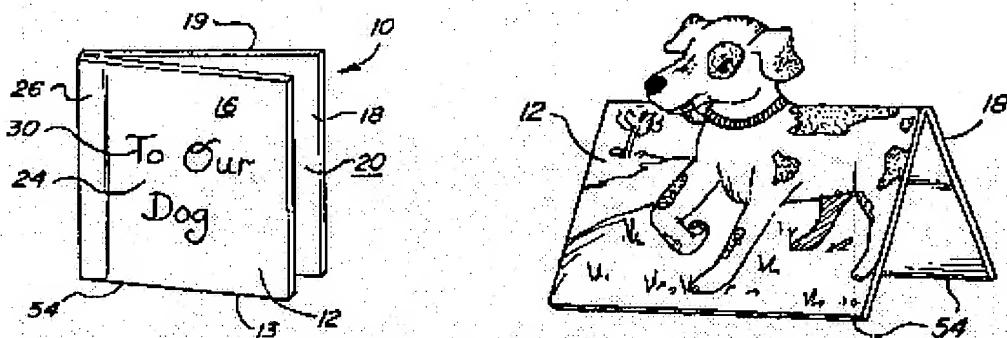
(7) HOY, Stephen B., US

(51) Int.Cl. "A23K 1/00

383 1995/08/07 (60,001/957) US

(54) CARTES DE VOEUX CONSOMMABLES POUR ANIMAUX

(54) EDIBLE ANIMAL GREETING CARDS



(57) La présente invention concerne une carte de vœux consommable (10) pouvant être ingérée par un animal familier, qui comprend au moins un feuillett consommable essentiellement rigide (12) ayant au moins une région pour les messages (24) positionnée sur la surface avant et/ou la surface arrière du feuillett. Au moins un message consommable (30) se trouve dans la région pour les messages et, dans une forme d'exécution préférée, plusieurs messages se trouvent sur des feuillets consommables de la carte de vœux. Le message consommable comprend une pluralité de caractères, chaque caractère étant suffisamment grand pour pouvoir être visible par l'œil humain moyen. Dans des formes d'exécution utilisant deux feuillets ou davantage (12),

(57) The present invention is directed to an edible greeting card (10) suitable for ingestion by a pet which comprises at least one substantially rigid edible panel (12) having at least one message region (24) positioned on the front surface and/or back surface of the panel. At least one edible message (30) is provided within the message region and, in a preferred embodiment, a plurality of messages are provided on the edible panels of the greeting card. The edible message has a plurality of characters, each character being sufficiently large so as to be perceived by the average human. In embodiments utilizing two or more panels (12, 18) edible joining devices (26) are utilized to join the panels. The panels are positioned within the vicinity of the pet so that the pet may view and ingest the panels and ~~edible~~ of 2

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être visible par l'œil humain moyen. Dans des formes
d'exécution utilisant deux feuillets ou davantage (12,
18), des dispositifs de jonction consommables (26)
servent à joindre les feuillets. Les feuillets et les
messages consommables sont placés près de l'animal
familier pour qu'il puisse les voir et les manger.

(200-3)

edible joining devices (26) are utilized to join the panels. The panels are positioned within the vicinity of the pet so that the pet may view and ingest the panels and edible message.

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